

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

UNITED STATES OF AMERICA,

§

Plaintiff,

§

v.

§

CIVIL NO. _____

§

ONE HS PRODUKT HELLCAT PISTOL

§

CAL: 9 MM SN: BY367672 and

§

ONE GLOCK GMBH 19 PISTOL

§

CAL: 9 MM SN: BPWN717

§

Defendants

§

VERIFIED FORFEITURE COMPLAINT IN REM

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes the United States of America, Plaintiff in the above entitled and numbered cause, by and through its Acting United States Attorney for the Southern District of Texas and its Assistant United States Attorney assigned to this matter, and files this Verified Complaint for Forfeiture *in Rem* against one HS Produkt Hellcat Pistol CAL: 9 mm SN: BY367672 and one Glock GMBH 19 Pistol CAL: 9 mm SN: BPWN717 (Defendant Firearms). The United States alleges the following:

NATURE OF THE ACTION

1. This is a Verified Complaint for Forfeiture *In Rem* brought pursuant to Title 18, United States Code §§ 922 (g)(3) and 924 (d). Section 922 (g)(3) makes it unlawful for any person “who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))” “...to possess in or affecting commerce, any firearm or ammunition or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce”. The Defendant Firearms were possessed by a prohibited person as defined under Section 922 (g)(3) and are, therefore, subject to forfeiture under Title 18, United States Code § 924 (d).

JURISDICTION AND VENUE

2. Jurisdiction is conferred upon this Court by virtue of 28 U.S.C. §§ 1345 and 1355 (b). Upon filing of this complaint, Plaintiff requests that the Clerk issue and arrest warrant *in rem* pursuant to the Supplemental Rule G(3)(b), which the plaintiff will execute upon the property pursuant to 28 U.S.C. § 1355(d) and Supplemental Rule G(3)(c).

3. Venue is proper in this district pursuant to Title 28, United States Code, Sections 1395 and 1395 because the Defendant Firearms are now and will remain in the jurisdiction of this Court, in the custody of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) during the pendency of this action.

FACTUAL BASIS FOR THE FORFEITURE

4. On September 23, 2020, agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) received information that Jaime Garza made multiple purchases of handguns with cash from a federal firearms licensee within five consecutive business days. Specifically, on September 22, 2020, Jaime Garza purchased a HS Produkt Hellcat 9 mm pistol SN: BY367672 and ammunition from Academy Store No. 73 in Laredo, Texas; On September 23, 2020, Jaime Garza purchased a Glock 19, 9 mm pistol SN: BPWN717 from the same Academy Store. During the purchase of the Defendant Firearms, Jaime Garza completed an ATF Form 4473, Firearms Transaction Record. One of the Form 4473 questions asks whether the purchaser is “an unlawful user of, or addicted to, marijuana, or any depressant, stimulant, narcotic drug, or any other controlled substance.”¹ On both forms, Garza indicated that he was not a an unlawful user or addict of any of the listed substances controlled substances.

5. On September 23, 2020 and following the purchase of the Glock 19, 9 mm pistol, a Laredo Police Officer conducted a traffic stop of a vehicle in which Garza was a passenger. During the

¹ See ATF Form 4473, Revised October 2016, question 11e.

traffic stop, Garza advised the officer that he had just purchased a firearm which was on the front passenger floorboard of the vehicle. The Laredo Police officer then conducted a criminal history query and learned that Garza had been arrested in 2019 for a Texas criminal violation of possession of marijuana. The officer contacted ATF, and Special Agent Marissa Perez and Task Force Officer (TFO) Morales responded to the location of the traffic stop. Because of his pending State criminal charge, Special Agent Perez and TFO Morales interviewed Garza in order to determine whether he could lawfully purchase and possess the Glock 19, 9 mm pistol or any other firearm. During the interview, Garza indicated that his State charge for misdemeanor possession of marijuana was still pending and unresolved. He further stated that in addition to the Glock 19, 9 mm, he purchased an HS Produkt Hellcat 9 mm pistol SN: BY367672 the day prior, and it was located at his residence in Laredo, Texas. Special Agent Perez and TFO Morales also questioned Garza concerning his marijuana use. Contrary to his responses on the ATF Form 4473, Garza stated that he smokes one or two “blunts”² of marijuana daily and until one week prior, was dependent on Xanax. Agents concluded the interview by requesting that Garza contact the agents the following day at their office for the purpose of continuing the interview and Garza agreed. ATF Special Agent Perez retained the Glock 19 9 mm pistol based on Garza’s admitted regular use of marijuana making him a person prohibited from possessing a firearm.

6. On September 24, 2020 agents interviewed GARZA went to the Laredo field Office. And brought the HS Produkt Hellcat 9 mm pistol SN: BY367672 he purchased on September 22, 2020. During the interview, Garza again admitted to using marijuana every day. GARZA also admitted lying on the ATF Form 4473 concerning his drug use. ATF agents retained possession of the HS Produkt Hellcat 9 mm pistol SN: BY367672.

² A marijuana “blunt” is a cigar that has had the tobacco removed and re-filled with marijuana.

7. The Defendant Firearms were manufactured outside the State of Texas and traveled in interstate commerce prior to their purchase by Jamie Garza.

NOTICE TO ANY POTENTIAL CLAIMANTS

YOU ARE HEREBY NOTIFIED that if you assert an interest in the Defendant Firearms which are subject to forfeiture and want to contest the forfeiture, you must file a verified claim which fulfills the requirements set forth in rule G of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions. The verified claims must be filed no later than thirty-five (35) days from the date this Complaint has been sent in accordance with Rule G(4)(b).

An answer or motion under Rule 12 of the Federal Rules of Civil Procedure must be filed no later than twenty-one (21) days after filing the claim. The claim and answer must be filed with the United States District Clerk for the Southern District of Texas and a copy must be served upon the undersigned Assistant United States Attorney at the address provided in this Complaint.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays for the following:

1. That Notice of Forfeiture issue according to the normal procedure of the Court citing all persons having an interest in the Defendant Firearms to appear on the return day of said process and make such Claim and Answer as they may have;
2. That Judgment of Forfeiture be decreed against the Defendant Firearms; and
3. That, following a Judgment of Forfeiture, the Defendant Firearms be disposed of according to law; and
4. For costs of this action, including costs of seizure and for such additional relief which Plaintiff may show itself entitled.

Respectfully submitted,

JENNIFER B. LOWERY
ACTING UNITED STATES ATTORNEY

BY: /s/Mary Ellen Smyth
Mary Ellen Smyth, Assistant U.S. Attorney
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Southern District Adm. 31348
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Laredo, Texas 78045
(956)723-6523
Email: Mary.Ellen.Smyth@usdoj.gov

VERIFICATION

I, Marissa Perez, Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives, in Laredo, Texas, declare under penalty of perjury that I am one of the agents responsible for the investigation concerning this litigation. I have read the above Complaint for forfeiture. Based upon my investigation and that conducted by a Laredo Police Officer and my review of that investigation, the information contained in the Complaint for Forfeiture, paragraphs 4-7, is true and correct to the best of my knowledge and belief.

Executed on this the 30th day of March, 2021.

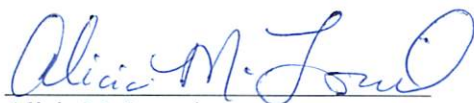


Marissa Perez, Special Agent
Bureau of Alcohol, Tobacco, Firearms and
Explosives

STATE OF TEXAS
COUNTY OF WEBB

SUBSCRIBED and SWORN to before me the undersigned Notary Public on this the

31st day of March, 2021



Alicia M. Laurel
Notary Public for the State of Texas



12/14/2021
My Commission Expires

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Complaint for Forfeiture in Rem and Notice of Forfeiture was mailed on this 31st day of March, 2021 via certified mail, return receipt request No. 7020 0640 000 9691 5795 to:

Jamie Garza
4203 Santa Isabel
Laredo, TX 78041

/s/ Mary Ellen Smyth
Mary Ellen Smyth
Assistant U.S. Attorney